

Members

Sen. Richard Bray, Chairperson  
Sen. David Ford  
Sen. William Alexa  
Sen. Timothy Lanane  
Rep. Robert Kuzman  
Rep. Dale Sturtz  
Rep. Ralph Ayres  
Rep. Kathy Richardson  
Chief Justice Randall T. Shepard  
Judge Ernest Yelton  
C. Joseph Anderson, Jr.  
William Overdeer  
Sarah M. Taylor



## COMMISSION ON COURTS

*Legislative Services Agency*  
200 West Washington Street, Suite 301  
Indianapolis, Indiana 46204-2789  
Tel: (317) 232-9588 Fax: (317) 232-2554

LSA Staff:

George T. Angelone, Attorney for the  
Commission  
Mark Goodpaster, Fiscal Analyst for the  
Commission

Authority: IC 33-1-15

### MEETING MINUTES<sup>1</sup>

**Meeting Date:** October 19, 2000  
**Meeting Time:** 1:30 P.M.  
**Meeting Place:** State House, 200 W. Washington  
St., Room 404  
**Meeting City:** Indianapolis, Indiana  
**Meeting Number:** 5

**Members Present:** Sen. Richard Bray, Chairperson; Sen. David Ford; Sen. William Alexa; Sen. Timothy Lanane; Rep. Dale Sturtz; Rep. Ralph Ayres; Rep. Kathy Richardson; Chief Justice Randall T. Shepard; Judge Ernest Yelton; C. Joseph Anderson, Jr.; Sarah M. Taylor.

**Members Absent:** Rep. Robert Kuzman; William Overdeer.

Sen. Bray convened the meeting at 1:40 pm. He distributed the minutes for the September 7<sup>th</sup> and September 28<sup>th</sup> meetings. The Commission adopted the minutes by voice vote.

The Division of State Court Administration of the Supreme Court distributed copies of the 1999 Indiana Judicial Service Report. (Available from the Legislative Information Center as Exhibit 1.)

---

<sup>1</sup> Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

The Staff Attorney distributed copies of a letter from the Judge of the St. Joseph Probate Court noting that the court has a county paid juvenile referee. (Available from the Legislative Information Center as Exhibit 2) He also distributed a list prepared by the Division of State Court Administration identifying all locally paid referees, commissioners, and other court officers in Indiana. (Available from the Legislative Information Center as Exhibit 3.)

### **Staggering of Terms of Office in Porter County**

Sen. Alexa indicated that the terms of the judges expire on a rotated basis in Porter County. The terms of two judges expire this year, three more expire in 2002, and one expires in 2004. He suggested that two terms ought to expire every two years. He suggested that the term of the judge of Porter Superior Court No. 4 be extended for two years to stagger the terms. Rep. Ayres indicated that the judges in Porter County do not all concur with this approach. He indicated that the judge of Porter Superior Court No. 1 has agreed to run in 2002 for a two year term and then run in 2004 for a normal six year term. This approach would accomplish the same result. The Commission voted to recommend to the General Assembly that the terms in Porter County be staggered so that two judges would be elected every two years. However, the recommendation is made without suggesting which judicial terms are to be lengthened or shortened.

### **Additional Magistrate for LaPorte County**

Sen. Bowser requested that an additional magistrate be added to the LaPorte court system. She distributed a letter supporting the request. (Available from the Legislative Information Center as Exhibit 4.) Sen. Bowser pointed out that the Weighted Caseload Study of the Division of State Court Administration supported the need for additional court personnel. The Commission discussed how the magistrate should be shared among the circuit and superior courts in LaPorte County. The Commission recommended that the General Assembly authorize one (1) additional full-time, state-paid magistrate to be shared by the circuit and superior courts in LaPorte County.

### **Funding for Allen County Drug Court**

Judge Kenneth R. Scheibenberger, Judge of the Allen Superior Court, Criminal Division, requested that the Commission recommend funding for the drug court program used in his court. After describing the additional procedures and personnel employed to provide services and supervision to nonviolent drug offenders, he indicated that his court needed between \$230,000 and \$300,000 per year to operate the program. He noted that the program has been shown to be effective in Indiana and other states to reduce recidivism, reduce inmate populations, and improve the chances that the offender will become a productive citizen. He said that the program was started with a grant from the federal government. This grant expires this year. He has funds from various sources to continue the program through 2001. However, continued local funding after 2001 is problematic. He noted that 11 courts in Indiana operate a drug court program. Sen. Alexa noted that the Supreme Court has asked for funds to provide grants to drug court programs. He said that the Supreme Court program would be a statewide effort. The Commission voted to recommend the funding of the Supreme Court initiative in the amount of \$300,000.

### **Funding of J-TAC and AIMS Initiatives**

Judge Paul Mathias, Vice-Chairman of the Supreme Court's committee on technology reported to the Commission that the Supreme Court has requested additional funds for technology improvement in its budget. The funds would be given as grants to trial

courts to upgrade their technology. He indicated that there has been discussion of funding this initiative with an increased court cost fee. If, excluding small claims cases, a fee of \$6 were imposed to fund technology, sufficient money could be raised to support the projected funding needs in the current biennium. He stated that the Supreme Court has not taken a position on how the initiative should be funded.

### **Funding of City and Town Courts**

As requested by the Commission, Mark Goodpaster, Fiscal Analyst for the Commission, provided a report on city and town court revenues and expenditures. (Available from the Legislative Information Center as Exhibit 5.) He stated that the report tried to match revenues received or retained by the city or town from the court's operation and the expenditures of the court. He stated that the data was compiled with the assistance of the Association of Cities and Towns from reports submitted by the courts to the Division of State Court Administration. He noted that not all courts made reports. He also noted that some courts included or excluded revenues and expenses from their reports differently than others. The report indicates that about one-half of the courts generated more local revenue than expense.

Judge Lonnie Randolph, East Chicago City Judge, suggested that city courts are needed to handle some of the caseload that would otherwise go to a circuit, superior, or county court. He suggested that changes in the jurisdiction of city courts are needed to insure that enough cases are filed in city court to make them fiscally sound. (Available from the Legislative Information Center as Exhibit 6.)

The Judge of the Anderson City Court, President of the Indiana City and Towns Judges Association, suggested that the figures reported by Mr. Goodpaster may not accurately reflect the expenses incurred by city and town courts. He noted that his court spent approximately \$11,250 in wages to process over 1,000 seat belt violation cases. They are very paperwork intensive and involve a lot of rescheduled hearings. He recommended that the legislature impose a court fee for safety belt violations.

Matt Brase, Association of Cities and Towns, indicated that their association will work with judges to provide better data on the revenues and expenses associated with operating these courts. He noted that despite the lack of fully accurate data, it is clear that some courts are having difficulty funding their operations. He suggested the following funding options:

- (1) The share of court fees sent by city and town courts to the state be reduced from 55% to 50% with the difference retained by the city or town generating the fees.
- (2) Imposition of a late payment fee in all courts, including circuit, superior, and county courts, for late payment of fines, civil penalties, and court costs. The full amount of the fee staying in the jurisdiction generating the fee. A court in its discretion could waive the fee in appropriate cases.

The Commission voted by voice vote to recommend the enactment of legislation that would establish a discretionary \$25 late payment fee.

### **Public Availability of Magistrate Applications**

Stephen A. Key, Hoosier State Press Association, pointed out that IC 33-4-7-3.5 makes the files of applicants for appointment as a magistrate confidential. He indicated that IC 33-4-7-3.5 was enacted as part of the courts bill in 1999. Before the enactment of this statute,

the practice was to disclose applicant names. He said that disclosure furthers the public interest in knowing that the selection of magistrates is not driven by inappropriate relationships. He stated that he thought disclosure was mandated by prior law. Chief Justice Shepard pointed out that IC 5-14-3-4 made disclosure of personnel applications discretionary. He asked if Mr. Key knew of any other law that made it mandatory. Mr. Key said he did not. The Commission voted to encourage the General Assembly to examine why applications for the position of magistrate are treated any differently than applications for other appointed positions of employment.

Sen. Bray indicated that there were several other pending issues before the Commission. The Commission took the following actions by a unanimous voice vote:

### **Conversion of County Paid Juvenile Referees to State Paid Magistrates**

The Commission recommends legislation be adopted to convert the juvenile referees in Allen County, Elkhart County, Johnson County, Lake County, Marion County, Porter County, St. Joseph County, Vanderburgh County, and Vigo County to full-time magistrates who are payable in conformity with IC 33-4-7.

### **Public Availability of Jury Lists**

The Commission recommends the preparation of legislation that would give a judge in Lake County or a county that adopts the alternative jury selection procedures added by P.L. 4-1998 the option of making a jury list confidential if the judge believes that public disclosure would endanger the safety of potential or selected jurors or lead to jury tampering.

### **Judicial Salaries**

The Commission finds that a salary increase for court officers is needed. The Commission recommends that salaries be set as follows:

Circuit, superior, municipal, county, or probate court	\$105,000
Judge of the Court of Appeals	125,000
Justice of the Supreme Court	130,000

The above amounts would be in addition to the \$5,000 subsistence allowance annually provided to the Chief Judge of the Court of Appeals and to the Chief Justice of the Supreme Court. If a bill that increases judicial salaries for circuit, superior, municipal, county, and probate courts also eliminates the discretionary \$5,000 maximum county supplement payable to these judges, the state paid salary of circuit, superior, municipal, county, and probate court judges should be \$110,000.

### **Additional Courts and Court Officers**

The Commission on Courts recommends the following additional courts and court officers:

- (1) One (1) additional superior court in DeKalb County.

- (2) One (1) additional superior court in Howard County.
- (3) One (1) part-time small claims referee for Henry Superior Court No. 2.

In addition, the Commission recommends that the statutory authority for the position of small claims referee in the DeKalb Superior Court be terminated.

Sarah Taylor made a motion to recommend the conversion of 19 county paid commissioners in Marion County to state paid magistrates. The motion was defeated on a show of hands by a vote of 2-7.

By a unanimous voice vote, the Commission adopted a final report containing the recommendations adopted in this meeting.

Sarah Taylor noted that the September 28<sup>th</sup> meeting was William Overdeer's last meeting. Today is C. Joseph Anderson's last meeting. Neither member is running again for the office that qualified them to be members of the Commission. Mr. Overdeer has been a member since the Commission's creation. The Commission voted to authorize Sen. Bray to write a letter on behalf of the Commission thanking Mr Overdeer and Mr. Anderson for their years of service.

Sen. Bray adjourned the meeting at 4:30 pm.